

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:18-cr-00016-RLY-MPB
)	
JAMES POTTS, JR.,)	-01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On September 7, 2021, the Court held an Initial Appearance on a Warrant for Violation of Supervised Release. Defendant Potts appeared via video and with his appointed counsel Mark Foster. The government appeared by Lauren Wheatley, Assistant United States Attorney. The United States Probation and Parole Office appeared by Officer Justin Driskill.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Potts of his rights and provided him with a copy of the petition. Defendant Potts waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Potts admitted violations 1, 2, 3, 4 and 5 ([Docket No. 78](#)).
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

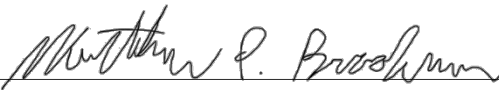
	Violation Number	Nature of Noncompliance
	1	<p>"You shall not commit another federal, state, or local crime."</p> <p>On May 13, 2021, an arrest warrant was issued for the offender for Domestic Battery in the Circuit Court of Cook County, Illinois located at the Skokie Courthouse 2nd District, Case Number 21-3419.</p>
	2	<p>"You shall report to the probation officer in a manner and frequency directed by the court or probation officer."</p> <p>On several occasions, Mr. Potts failed to return numerous calls, text messages and emails to his assigned probation officer."</p>
	3	<p>"You shall maintain lawful full time employment, unless excused by the probation officer for schooling, vocational training, or other reasons that prevent lawful employment."</p> <p>Mr. Potts has failed to show any proof of employment since October 30, 2020 and is considered unemployed since that date.</p>
	4	<p>"You shall participate in a substance abuse or alcohol treatment program approved by the probation officer and abide by the rules and regulations of that program. The probation officer shall supervise your participation in the program....."</p> <p>Mr. Potts attended a substance abuse evaluation, which recommended a treatment program. Subsequently, he failed to engage in the required treatment program.</p>
	5	<p>" You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment. Testing may include no more than 8 drug tests per month. You shall not attempt to obstruct or tamper with the testing methods."</p> <p>Mr. Potts failed to show for the following drug tests: March 30, 2021, April 5, 2021 and May 5, 2021.</p>

4. The parties stipulated that:
- (a) The highest grade of violation is a Grade C violation.
 - (b) Defendant's criminal history category is VI.
 - (c) The advisory range of imprisonment applicable upon revocation of supervised release, therefore, is 8-14 months' imprisonment.

By agreement, the Parties recommended a sentence of twelve (12) months in the Bureau of Prisons with no further supervision to follow upon release. The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he be sentenced to custody of the Attorney General or his designee for a period of twelve (12) months with no further supervision upon release from imprisonment.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report and Recommendation to serve and file written objections with the District Judge.

Dated: September 7, 2021


Matthew P. Brookman
United States Magistrate Judge
Southern District of Indiana

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United States Probation Office, United States Marshal